

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
MARCY ZEVON,)
individually and on behalf of)
all others similarly situated,)
)
Plaintiff,) No. 12-cv-4970 (CM)(MHD)
)
- against -) CLASS ACTION
)
DEPARTMENT STORES) JURY DEMANDED
NATIONAL BANK,)
)
Defendant.)
-----x

AMENDED COMPLAINT

1. This action seeks redress for the illegal practices of Defendant Department Stores National Bank (the "Bank"), for providing to customers of its Macy's American Express credit card accounts ("Macy's Amex") disclosure statements that violated the Truth in Lending Act ("TILA").

2. As alleged in greater detail below, the Bank failed to furnish accurate disclosures in the manner mandated by TILA provisions and by the corresponding federal regulations governing periodic billing statements furnished in connection with credit card accounts. More specifically, the Bank failed to furnish disclosures regarding the cost and length of minimum monthly payments in compliance with guidelines provided by federal regulations. TILA generally requires the credit issuer to furnish a customer estimates of how long and how many dollars it would take for

her to pay off her outstanding balance under the terms of the account if she were to make only the required minimum payment each month, assuming no additional extensions of credit. Further, the Bank also failed, *inter alia*, to furnish periodic statement disclosures of accurate estimates regarding the cost of paying off the balance over three years, assuming no additional extensions of credit. The Bank's "pay-off" calculations and disclosures do not comport with the \$2.00 minimum monthly finance charge that it discloses, on the very same periodic statements, to be applicable to the card account.

3. TILA's purpose is to assure meaningful disclosure of credit terms in order to (i) allow consumers to compare more readily the various credit terms available; (ii) enable consumers to avoid the uninformed use of credit; and (iii) protect consumers against inaccurate and unfair billing practices. 15 U.S.C. § 1601(a). The Bank's conduct violates the express provisions of the TILA and the applicable Regulations.

4. Under the private enforcement provisions of TILA, plaintiff and the proposed class seek the recovery of statutory damages of up to \$1,000,000 with respect to each of the Bank's failures to comply.

Jurisdiction and Venue

5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1337, as well as under 15 U.S.C. § 1640(e), because this action arises under TILA, 15 U.S.C. § 1601 *et seq.*

6. Venue is proper because the acts and transactions that give rise to this action occurred, in substantial part, in this district. Venue is also proper in this district because the Bank transacts business in this district and the interests of justice require maintenance of this action in this district.

Parties

7. Plaintiff Marcy Zevon resides in New York, New York, which is within this district.

8. Zevon is a “consumer,” as that term is defined by § 1602(h) of TILA, because this complaint arises from the Bank’s offer and extension of credit to Zevon, a credit card holder, for personal, family or household purposes.

9. Upon information and belief, the Bank is a corporation doing business in the State of South Dakota and throughout the United States, with a principal place of business in Sioux Falls, South Dakota.

10. The Bank is a “creditor,” as that term is defined by § 1602(f) of TILA and Regulation Z (“Regulation Z”), 12 C.F.R. § 226.2(a)(17) and 12 C.F.R. §1026.2(a)(17), because at all relevant times, the Bank, in the ordinary course of its business, regularly – *i.e.*, more than 25 times a year – extended or offered to extend consumer credit for which a finance charge is or may be imposed, which is payable in more than four installments.

Factual Allegations

11. Zevon is the holder of a Macy’s-branded American Express card account issued by the Bank generally intended for the purchase of goods or services

at all locations, other than Macy's retail locations and Macy's website, that honor American Express cards.

12. Upon information and belief, Zevon's Macy's-branded American Express account was the successor to her Macy's-branded Visa card account. See Exhibit A.

13. The Bank issued Zevon a periodic billing statement on or about June 23, 2011, the relevant portion of which is attached as Exhibit B.

14. All class members herein, as defined below, were furnished a Macy's Amex billing statement substantially similar to the one attached as Exhibit B.

Class Allegations

15. Zevon brings this action individually and on behalf of all persons similarly situated.

16. The proposed class (the "Class") consists of all persons who, according to the Bank's records, (i) had an outstanding balance on a Macy's Amex account and (ii) were furnished, after June 22, 2011, a periodic billing statement with a minimum payment repayment estimate and a three-year repayment estimate using the same formula as that employed in producing those estimates as disclosed in Exhibit B and disclosing time and/or dollar estimates that were inaccurate and did not conform to the requirements of Regulation Z and TILA.

17. Specifically excluded from this class are the Bank, any entity in which the Bank has a controlling interest, and the officers, directors, affiliates, legal

representatives, heirs, successors, subsidiaries or assigns of any such individual or entity.

18. The members of the class for whose benefit this action is brought is so numerous that joinder of all Class members is not practicable. In light of the tens of thousands of credit cards issued by the Bank every year, the number of class members is believed to be in excess of 1,000 persons.

19. Zevon's claims are typical of, if not identical to, all members of the class and Zevon does not have any interest that is adverse or antagonistic to the interests of the class. If the conduct of the Bank violates TILA as applied to Zevon, then it violates TILA with respect to the Class.

20. Zevon will fairly and adequately protect the interests of the Class as she is committed to the vigorous prosecution of this action and, to that end, has retained competent counsel experienced in complex litigation of this nature.

21. The Class is proper for certification under Rule 23(b)(2) of the Federal Rules of Civil Procedure. The Defendant's actions complained of herein are generally applicable to all Class members, thereby making final injunctive relief appropriate with respect to the class as a whole.

22. The class is also proper for certification under Federal Rule of Civil Procedure 23(b)(3). A class action is superior to other available methods for the fair and efficient adjudication of the claims asserted herein. Because damages suffered by individual class members may be relatively small, the expense and burden of individual litigation make it impracticable for the class to seek redress individually.

for the wrongs they have suffered. Members of the Class do not have a particular interest in individually controlling the prosecution of separate actions.

23. There are questions of law and fact which are common to the members of the Class and which predominate over questions affecting only individual members. Common questions of law and fact include, but are not limited to, whether the Bank has a standardized procedure by which it fails to make a disclosure of a credit customer's minimum payment repayment estimate compliant with TILA and Regulation Z.

24. Upon information and belief, the Class consists of thousands of customers.

25. Thus, a class action is an appropriate and superior method for the fair and efficient adjudication of the present controversy given the following factors:

- a) Common questions of law and/or fact predominate over any individual questions which may arise and, accordingly, there would accrue enormous savings to both the Court and the Class in litigating the common issues on a class-wide instead of a repetitive individual basis; and
- b) The aggregate volume of the individual class members' claims, coupled with the economies of scale inherent in litigating similar claims on a common basis, will enable this case to be litigated as a class action on a cost-effective basis, especially when compared with repetitive individual litigation.

26. Class certification is also fair and efficient because prosecution of separate actions by individual Class members would create a risk of differing adjudications with respect to such individual members of the Class, which as a practical matter may be dispositive of the interests of other members not parties to

the adjudication, or substantially impede their ability to protect their interests. Moreover, since the actual monetary damages suffered by, or statutory damages available to, individual Class members may be relatively small, although significant in the aggregate, the expenses and burdens of individual litigation make it impossible or effectively impossible for the members of the Class to seek individual redress for the TILA violations committed by Defendant.

27. Plaintiff anticipates that there will be no difficulty in the management of this litigation. The records of the individuals encompassed within the Class are in Defendant's possession.

COUNT I

Violations of the Truth in Lending Act

28. Plaintiff repeats and re-alleges each and every allegation contained in the foregoing paragraphs with the same force and effect as though fully set forth herein.

29. Congress authorized the Federal Reserve Board ("FRB" or "Board") to promulgate regulations granting it broad authority to effectuate the purposes of TILA; that authority is now delegated to the Bureau of Consumer Financial Protection ("Bureau"). 15 U.S.C. § 1604(a)(2008); 15 U.S.C. § 1604(a).

30. The set of regulations that the FRB promulgated to implement TILA is known as Regulation Z, 12 C.F.R. §226.1 *et seq.*

31. To reflect its assumption of TILA rulemaking authority as of July 21, 2011, the Bureau issued an interim final rule republishing Regulation Z with only

minor changes that did not impose any new substantive obligations on creditors. 76 FR 79768 (Dec. 22, 2011); 12 C.F.R. §1026.1 *et seq.*

32. For customers revolving a balance, TILA requires the creditor to furnish a minimum payment repayment estimate of time (“MPRET”) that discloses approximately how much time, under the terms of the account, it would take to pay off the debt – assuming no additional credit is extended – if the customer were to make only the minimum monthly payments required each month. 15 U.S.C. § 1637(b)(11)(B)(i).

33. For customers revolving a balance, TILA further requires the creditor to furnish a minimum payment repayment total cost estimate (“MPTCE”) that discloses approximately the total dollar cost of paying off the debt – assuming no additional credit is extended – if the customer were to make only the minimum monthly payments required each month. 15 U.S.C. § 1637(b)(11)(B)(ii).

34. The creditor is required to furnish the MPRET and MPTCE disclosures with the periodic billing statement “in the form and manner which the Board shall prescribe, by regulation . . . in a conspicuous and prominent location on the billing statement.” 15 U.S.C. § 1637(b)(11)(D).

35. Accordingly, the Board generally mandated that creditors furnish customers with MPRET and MPTCE disclosures as described in Appendix M1 and in a format substantially similar to either Sample G-18(C)(1), G-18(C)(2) or G-18(C)(3), whichever may be applicable. 12 C.F.R. §226.7(b)(12), 12 C.F.R. Part 226 Supp. I, Appendixes G, M1.

36. Similarly, the Bureau generally mandates that creditors furnish customers with MPRET and MPTCE disclosures as described in Appendix M1 and in a format substantially similar to either Sample G-18(C)(1), G-18(C)(2) or G-18(C)(3), whichever may be applicable. 12 C.F.R. §1026.7(b)(12), 12 C.F.R. Part 1026 Supp. I, Appendixes G, M1.

37. Upon information and belief, Zevon's account terms provided for a minimum interest charge of \$2.00 in any month that the average daily balance would have subjected her account to the imposition of an interest charge under \$2.00. Exhibit B.

38. The actual length of time it would take to pay Zevon's \$304.22 outstanding balance making only minimum payments, as delineated in Appendix M1, would have been no less than 80 months, which rounds to seven years. 12 C.F.R. Part 1026, Supp. I, Appendix M1; Exhibit C, Minimum-Payment Amortization of Zevon Debt.

39. As such, the MPRET disclosure Defendant furnished Zevon – "6 years" – did not accurately disclose an estimate of the full length of time it would have taken to pay the outstanding balance as delineated in Appendix M1, and thus violated Regulation Z and TILA. Exhibit B.

40. Additionally, the actual total cost of paying Zevon's \$304.22 outstanding balance making only minimum payments, as delineated in Appendix M1, would have been \$477.59. 12 C.F.R. Part 1026, Supp. I, Appendix M1; Exhibit C, Minimum-Payment Amortization of Zevon Debt.

41. As such, the MPTCE disclosure Defendant furnished Zevon – “\$430” – did not accurately disclose an estimate of the total cost of paying the outstanding balance making only minimum payments, as delineated in Appendix M1, and thus violated Regulation Z and TILA. Exhibit B.

42. Further, the full cost of paying Zevon’s \$304.22 outstanding balance in 3 years by making level monthly payments, as delineated in Appendix M1, would have been \$395.37 making \$10.00 level payments. 12 C.F.R. Part 1026, Supp I, Appendix M1; Exhibit D, Three-Year Amortization of Zevon Debt.

43. As such, the cost disclosure Defendant furnished Zevon – “\$375” – did not accurately disclose an estimate of the total cost of paying the outstanding balance making level \$10 payments over three years, as delineated in Appendix M1, and thus violates Regulation Z and TILA. Exhibit B.

44. Upon information and belief, the Bank produced the billing statement containing erroneous repayment cost and time estimates using a standard computer algorithm; thus, the inaccurate disclosures the Bank made to Zevon were also made to similarly situated members of the class.

45. These disclosures are erroneous on the grounds that Zevon’s minimum finance charge during this period was no longer \$1.00 – as it had been in the Visa Card agreement, Exhibit A – but \$2.00, as disclosed on every billing statement, regardless of whether this term had been amended with proper advance notice under TILA and Regulation Z; however, if the minimum finance charge during this period is ultimately determined to have indeed been \$1.00, then, in the alternative,

the Bank's disclosure on the statement that a \$2.00 minimum finance charge was in force violated Regulation Z and TILA by providing a disclosure that does not reflect the legal obligation of the parties. 12 C.F.R. § 1026.5(c).

46. Upon information and belief, the Bank produced the billing statement containing minimum interest charge information using a standardized "backer" form; thus any inaccurate minimum interest charge disclosures the Bank made to Zevon were also made to similarly situated members of the class.

47. With respect to each of the Bank's violations of TILA for inaccurate disclosures, as alleged above, Plaintiff and the Class are entitled to recover up to \$1,000,000 in statutory damages, together with costs and reasonable attorney fees. 15 U.S.C. § 1640(a)(2).

WHEREFORE, Plaintiff Marcy Zevon prays on her behalf and on behalf of the Class that judgment be entered against Defendant as follows:

- (1) An order certifying the proposed Class under Federal Rule of Civil Procedure 23(b)(2) and, additionally or in the alternative, an order certifying the Class under Federal Rule of Civil Procedure 23(b)(3);
- (2) A declaration that the Bank's systematic and standard policy of furnishing Macys-branded American Express card account billing statements that make inaccurate disclosures to customers with respect to minimum-payment repayment of the outstanding balance violates the Truth in Lending Act;

(3) An injunction permanently prohibiting the Bank from engaging in the conduct described;

(4) Maximum statutory damages as provided under 15 U.S.C. § 1640(a)(2);

(5) Attorney fees, litigation expenses, and costs; and

(6) Such other and further relief as to this Court may seem just and proper.

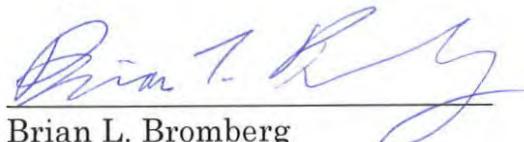
Jury Demand

Plaintiff respectfully requests a trial by jury.

Dated: New York, New York
September 14, 2012

Respectfully Submitted,

By:


Brian L. Bromberg
One of Plaintiff's Attorneys

Attorneys for Plaintiff

Brian L. Bromberg
Michael N. Litrownik
Bromberg Law Office, P.C.
40 Exchange Place, Suite 2010
New York, NY 10005
(212) 248-7906

Harley J. Schnall
Law Office of Harley J. Schnall
711 West End Avenue
New York, NY 10025
(212) 678-6546

Exhibit A



REWARD

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- For your protection, you may be asked to show identification when using your Macy's American Express Card at Macy's.

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Visit www.macys.com/register to update or create your macys.com profile with your new Macy's American Express Card account number. It's quick, convenient and an easy way to sign up for paperless account statements, too!

American Express is a federally registered service mark of American Express and is used by Department Stores National Bank pursuant to a license. This credit card program is issued and administered by Department Stores National Bank.

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** Offers provided by participating American Express merchants. All offers are subject to Terms and Conditions available on amexnetwork.com/dailywishterms.

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23 ABBR810

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See back panel for details.

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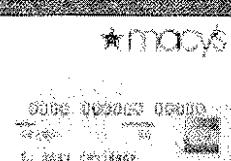
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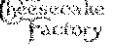
Receive a 15% statement credit every time you use your new Macy's American Express Card at participating locations, September 6 through December 31, 2010, until you reach a total maximum credit of \$25.*

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1. Register your Macy's American Express Card at www.amexnetwork.com/macy's.
2. Pay for your meal at any of the locations shown below with your registered Macy's American Express Card.
3. Receive an automatic statement credit of 15% of your total dining bill (including taxes and tip) whenever you use your Macy's American Express Card at participating locations, until you reach a total maximum credit of \$25.

REMEMBER, YOU MUST REGISTER YOUR MACY'S AMERICAN EXPRESS CARD AT WWW.AMEXNETWORK.COM/MACY'S TO RECEIVE THIS STATEMENT CREDIT.





* Exclusions apply; see back for details.

*Excludes: Everyday Values (EDV), specials, Super Buys and all regular priced; bridge & designer handbags and designer sportswear, cosmetics, fragrances, watches, Impulse, Oval Room, 28 Shop®, all electrics and electronics, e-Spot®, furniture, mattresses, rugs/floor coverings, sterling flatware, All-Clad®, Emporio Armani, Baccarat, Tommy Bahama, Coach, Dooney & Bourke, Dyson, Ghurka, Henckels, Juicy Couture®, Lacoste, Lalique, Lauren/Polo/Ralph Lauren, Levi's®/Dockers®, MICHAEL Michael Kors/Michael Kors, The North Face®, Not Your Daughter's Jeans®, Reebok®, EasyTone, Skechers® Shape-Ups®, kate spade, Tumi™, Louis Vuitton, Wacoal, Waterford China/Crystal/Silver, Wüsthof, William Yeoward, select licensed departments. Not valid on previous purchases, special orders, special purchases, services, gift cards, jewelry trunk shows, payment on credit accounts, bridal salons, restaurants, gourmet food and wine. Cannot be combined with any savings pass/coupon, extra discount or credit offer, except opening a new Macy's account. EXTRA SAVINGS % APPLIED TO REDUCED PRICES. Valid in-store any single day and one time on macy's.com, August 23-November 2, 2010, with your Macy's Card.

*Excludes: Everyday Values (EDV), specials, Super Buys and all regular priced; bridge & designer handbags and designer sportswear, cosmetics, fragrances, watches, Impulse, Oval Room, 28 Shop®, all electrics and electronics, e-Spot®, furniture, mattresses, rugs/floor coverings, sterling flatware, All-Clad®, Emporio Armani, Baccarat, Tommy Bahama, Coach, Dooney & Bourke, Dyson, Ghurka, Henckels, Juicy Couture®, Lacoste, Lalique, Lauren/Polo/Ralph Lauren, Levi's®/Dockers®, MICHAEL Michael Kors/Michael Kors, The North Face®, Not Your Daughter's Jeans®, Reebok®, EasyTone, Skechers® Shape-Ups®, kate spade, Tumi™, Louis Vuitton, Wacoal, Waterford China/Crystal/Silver, Wüsthof, William Yeoward, select licensed departments. Not valid on previous purchases, special orders, special purchases, services, gift cards, jewelry trunk shows, payment on credit accounts, bridal salons, restaurants, gourmet food and wine. Cannot be combined with any savings pass/coupon, extra discount or credit offer, except opening a new Macy's account. EXTRA SAVINGS % APPLIED TO REDUCED PRICES. Valid in-store any single day and one time on macy's.com, August 23-November 2, 2010, with your Macy's Card.

Date of redemption _____
(Sales Associate: write in today's date)



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Date of redemption _____
(Sales Associate: write in today's date)



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J/Pmt
*Excludes: Everyday Values (EDV), specials, Super Buys and all regular priced; bridge & designer handbags and designer sportswear, cosmetics, fragrances, watches, Impulse, Oval Room, 28 Shop®, all electrics and electronics, e-Spot®, furniture, mattresses, rugs/floor coverings, sterling flatware, All-Clad®, Emporio Armani, Baccarat, Tommy Bahama, Coach, Dooney & Bourke, Dyson, Ghurka, Henckels, Juicy Couture®, Lacoste, Lalique, Lauren/Polo/Ralph Lauren, Levi's®/Dockers®, MICHAEL Michael Kors/Michael Kors, The North Face®, Not Your Daughter's Jeans®, Reebok®, EasyTone, Skechers® Shape-Ups®, kate spade, Tumi™, Louis Vuitton, Wacoal, Waterford China/Crystal/Silver, Wüsthof, William Yeoward, select licensed departments. This coupon has no cash value and may not be redeemed for cash. Not valid on previous purchases, special orders, special purchases, services, gift cards, jewelry trunk shows, payment on credit accounts, bridal salons, restaurants, gourmet food and wine. Cannot be combined with any savings pass/coupon, extra discount or credit offer, except opening a new Macy's account. EXTRA SAVINGS % APPLIED TO REDUCED PRICES. Savings allocated among eligible items, as shown on receipt. Returns forfeit allocated savings for returned item(s). Purchase must be \$30 or more, exclusive of tax and delivery fees. One savings pass per transaction. Valid for one-time use only in-store and one time on macy's.com, August 23-November 2, 2010, with your Macy's Card.



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*To be eligible for this 15% dining offer, you must be the named recipient of this invitation, and must register your Macy's American Express Card at www.amexnetwork.com/macy's prior to making a qualifying purchase. A qualifying purchase is one made with a registered card at a participating merchant from September 6, 2010, through December 31, 2010. You may register only one (1) card for this offer. The total of all statement credits received by any one cardholder, regardless of the total spent on qualifying purchases, will be limited to \$25. If your card is replaced during the promotional period, please call the customer service number on the back of your card for assistance. To see the list of participating merchants, please go to www.amexnetwork.com/macy's. Your reward will be credited to your registered card account as a statement credit. Statement credits are generally issued within 5 business days after your qualifying purchase, but may take up to 2 billing cycles to post to your account. Additional terms apply; see registration website for details.

American Express is a federally registered service mark of American Express and is used by Department Stores National Bank pursuant to a license. This credit card program is issued and administered by Department Stores National Bank.

PRIMARY

Phone to activate your new card(s). Please have your old and new cards available.

Visit www.macy's.com or call 1-888-757-6894 decide to
name to receive **PRINCIPAL** Pre-activated new(s) (10/10/12)
For fastest activation, use your new card(s).

INFORMATION UPDATE — The following changes will apply to your Credit Card Agreement for your Visa® Account upon activation of your Macy's American Express® Account:

- Anywhere "Visa" is mentioned in your Credit Card Agreement will now change to "American Express."
- The sections in your Credit Card Agreement detailing the International Transaction Fee (within the "Cost of Credit" section) and Foreign Currency Conversion are replaced in their entirety with the following:
 - ◆ We will charge an International Transaction Fee for each transaction (including, but not limited to, a Purchase or Cash Advance) processed to your American Express Account by a merchant outside the United States and its territories, whether or not the transaction is in U.S. Dollars. This Fee will be equal to 1% of the transaction amount in U.S. Dollars, and is paid to American Express as an international transaction charge.
 - ◆ **Foreign Currency Conversion:** When your American Express Account is used to initiate any transaction (including but not limited to a Purchase, Return or Cash Advance) in a currency other than U.S. Dollars, it will be converted into U.S. Dollars on the date it is processed by American Express or its agents. Unless a particular rate is mandated by applicable law, the conversion rate used by American Express will be no greater than (a) the highest interbank conversion rate identified by American Express from customary banking sources, or (b) the official conversion rate published by a government agency, on the conversion

date or the prior business day. This conversion rate may differ from the rate in effect on the date of your transaction. A merchant (such as an airline) may convert a transaction into U.S. Dollars before sending it to American Express. In that case, the merchant selects the conversion rate.

- Any Auto Rental Insurance you had with your Macy's Visa Account will end when your Macy's Visa Card expires, you activate your new Macy's American Express Card, or on 1/15/2011, whichever comes first.

American Express Account refers to all purchase activity outside of Macy's stores and macys.com on the Macy's American Express Card. American Express is a federally registered service mark of American Express and is used by Department Stores National Bank pursuant to a license. This credit card program is issued and administered by Department Stores National Bank.

Exhibit B

MARGY ZEVON

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1. **How to Avoid Paying Interest on Purchases:** If you make Purchases during a billing period with no previous balance or where the sum of payments and credits is at least equal to the Previous Balance, no Interest Charges are added to your account for that billing period. If you pay the Total New Balance on that statement by the Payment Due Date, you can avoid Interest Charges for those Purchases during the next billing period. However, if you pay less than the full balance, you still avoid Interest Charges on that portion of the balance paid. If you make a Purchase during a billing period with an unpaid previous balance, we will begin charging interest on the Purchase from the date it is added to the balance and continue to accrue interest until payment in full is credited to your account. You can avoid Interest Charges on new Purchases that appear on your current billing statement if you pay your Total New Balance by the Payment Due Date on your current statement.

2. **Paying Interest on Cash Advances:** We will begin charging interest on Cash Advances on the transaction date. We reserve the right to waive all or part of any Interest Charge in certain cases without losing our right to impose such Interest Charge in future billing periods.

3. **Balance Subject to Interest Rate for Purchases and Cash Advances:** The Interest Charge for either Purchases or Cash Advances is computed by applying the Daily Periodic Rate, multiplied by the number of days in the billing period, to the Balance Subject to Interest Rate for either Purchases or Cash Advances. The Daily Periodic Rates applicable to Purchases and Cash Advances for the billing period is 1/365th of the Annual Percentage Rate (regardless of leap years), rounded down to five decimal places.

The Balance Subject to Interest Rate for Purchases and Cash Advances is calculated separately. To get the Balance Subject to Interest Rate, we take the beginning balance of either Purchases or Cash Advances each day, add any new Purchases or Cash Advances, any Interest Charges applied to the previous day's balance, and new fees, and subtract any new payments and credits. This gives us the daily balance. Then, we add up all the daily balances for the billing period and divide the total by the number of days in the billing period. This gives us the Balance Subject to Interest Rate for either Purchases or Cash Advances.

4. **Minimum Interest Charge:** A Minimum INTEREST CHARGE of \$2.00 is imposed in each billing period in which the INTEREST CHARGE resulting from application of the periodic rates would be less than \$2.00.

5. **International Transaction Fee:** We will charge an International Transaction Fee for each transaction (including, but not limited to a Purchase or Cash Advance) processed to your American Express Account by a merchant outside the United States and its territories, whether or not the transaction is in U.S. Dollars. This fee will be equal to 1% of the transaction amount in U.S. Dollars and is paid to American Express as an international transaction charge.

6. **Payments and Late Fees:** You may at any time pay your total amount due or any part of it, but you must pay at least the "Minimum Payment Due" shown on this Statement. To avoid a late fee, you must pay the "Minimum Payment Due" by the "Payment Due Date." Payment of any disputed amount is not required pending our resolution of any billing inquiry. Returns and other credits are not applied toward your "Minimum Payment Due." If you make a payment at a location other than the address shown on this Statement for receipt of payment, crediting that payment to your Account may be delayed up to 5 days. Payments received by 5:00 p.m. local time at the address shown on this Statement will be credited as of the date received.

Sending an eligible check with this payment coupon authorizes us to complete the payment by electronic debit. If we do, the checking account will be debited in the amount of the check, as soon as the day we receive the check, and the check will be destroyed.

7. **Disputed Amounts:** All communications concerning disputed amounts, including any check or other payment instrument in

an amount less than the full amount due that you send to us marked "paid in full," or which you otherwise tender as full satisfaction of a disputed amount, must be sent to us at the address listed in Section 16 below.

8. **How Your Accounts Appear on a Credit Report:** We report each Account Type you request on your Account separately to the credit bureaus, which would cause you to have an entry on your credit report for each Account Type. These include charges you make at Macy's on a Revolving, Major Purchase or Club Account. If you also have a Macy's American Express Account or Visa® Account, it reports separately to the credit bureaus.

9. **Adverse Credit Reports:** WE MAY REPORT INFORMATION ABOUT YOUR ACCOUNT TO CREDIT BUREAUS. LATE PAYMENTS, MISSED PAYMENTS, OR OTHER DEFAULTS ON YOUR ACCOUNT MAY BE REFLECTED IN YOUR CREDIT REPORT.

10. **Past Due Accounts:** If your Account is past due, we have included a message about that on this Statement. We are required by law to tell you that this is an attempt to collect a debt and any information obtained will be used for that purpose.

11. **Disputed Accuracy of Credit Reports:** If you think we reported erroneous information to a credit reporting agency, write to: Credit Bureau Dispute Verification, P.O. Box 8222, Mason, OH 45040-8222. In doing so, please identify the inaccurate information and tell us why you believe it is incorrect. If you have a copy of the credit report that includes the inaccurate information, please send a copy of that report to us as well. We will promptly investigate the matter and notify you in writing of the results. If we agree with you, we will also contact each credit reporting agency to which we reported and request a correction.

12. **Telephone Monitoring:** We treat every customer call confidentially. To ensure that you receive accurate and courteous customer service, your call may be monitored by a second employee.

13. **Important Telephone Numbers:** For questions regarding this Statement or to report a lost or stolen credit card, call the telephone number on this Statement. For TDD/TTY (Telecommunications Device for the Deaf) assistance, call 1-800-281-0820.

14. **Bankruptcy Notices:** If you send any notice for bankruptcy purposes relating to this account, you must mail it to the following address: Bankruptcy Processing, P.O. Box 8053, Mason, OH 45040

15. **What To Do If You Think You Find A Mistake On Your Statement:** If you think there is an error on your statement, write to us at: P.O. Box 8057, Mason, Ohio 45040. In your letter, give us the following information:

- **Account Information:** Your name and account number.
- **Dollar amount:** The dollar amount of the suspected error.
- **Description of Problem:** If you think there is an error on your bill, describe what you believe is wrong and why you believe it is a mistake.

You must contact us within 60 days after the error appeared on your statement. You must notify us of any potential error in writing. You may call us, but if you do we are not required to investigate any potential error and you may have to pay the amount in question. While we investigate whether or not there has been an error, the following are true:

- We cannot try to collect the amount in question, or report you as delinquent on that amount.
- The charge in question may remain on your statement, and we may continue to charge you interest on that amount. But, if we determine that we made a mistake, you will not have to pay the amount in question or any interest or other fees related to that amount.
- While you do not have to pay the amount in question, you are responsible for the remainder of your balance.
- We can apply any unpaid amount against your credit limit.

American Express Account refers to all purchase activity outside of Macy's stores and macy's.com on the Macy's American Express Card. This credit card program is issued and administered by Department Stores National Bank. American Express is a federally registered service mark of American Express and is used by Department Stores National Bank pursuant to a license.

AMEX-MCY ENG (07/10)
EC16/MAX01 (07/10)

New Information? (Please be sure to check the box on the front if you fill in any boxes below.)

If your mailing address, telephone or e-mail address is changing, please enter the new information below.

If you need to change your name due to a change in marital status, please indicate the new name below.

Name Change:

First Name:	Middle Name:	Last Name:
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Address Change:

Street:	City:	State:	Zip:
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City:

State:

Zip:

Telephone:

Area Code:	Number:
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E-mail Address*:

Email Address:	
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 RECYCLABLE

*If you would like Macy's to send you e-mails regarding sales, events or other offers that may interest you.

MACY ZEVON

Fees

TOTAL FEES FOR THIS PERIOD		\$0.00
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Interest Charged

Jun 22	Jun 22	Interest charge on purchases	\$4.22
Jun 22	Jun 22	Interest charge on cash adv	\$0.00
		TOTAL INTEREST FOR THIS PERIOD	\$4.22

2011 Totals Year-to-Date

Total fees charged in 2011	\$11.00
Total interest charged in 2011	\$13.88

Go to macy's.com/mymacyscard to view previous transactions and statements.

Interest Charge Calculation

Your Annual Percentage Rate (APR) is the Annual Interest Rate on your Account.

Type of Balance	Annual Percentage Rate (APR)	Balance Subject to Interest Rate	Interest Charge
Purchases	14.15% (v)	\$350.82	\$4.22
Cash Advances	14.15% (v)	\$0.00	\$0.00

(v) – Variable Rate

Macy's and Star Rewards News

Always be in the know! Check us out on facebook.com/Macy's and twitter.com/Macy'sinc for inside tips on sales, promotions, and special events.

Save time and get the peace of mind that comes with knowing your monthly bills are paid on time. Contact your providers to have your monthly bills charged automatically to your Macy's American Express Card.

Don't miss Macy's 4th of July Fireworks, America's largest fireworks display. See it live on NBC - check your local listings for details.

Hyatt Aruba FREE Night, FREE Upgrade!

Book a 4-night stay at the Hyatt Regency Aruba Resort & Casino with your Macy's American Express Card and enjoy 4th night free, daily breakfast, free upgrade & \$50 Macy's Gift Card. Limitations apply. Call Summit Travel (800) 548-2522 or visit: www.macystravelrewards.com/aruba for complete details.

IT'S NOT JUST FOR
BIG THINGS.

Your Macy's American Express® Card is perfect for your weekly grocery run. Many supermarkets welcome the Macy's American Express Card.

SEE ALL YOUR CARD HAS TO OFFER AT MACYS.COM/MACYSAMEXPBENEFITS





Here's a simple way to reduce paper waste and save fuel: switch from paper to electronic statements. When we work together, little changes make a big difference.

Learn more at www.macys.com/gogreen

A special online offer just for Macy's American Express® Cardholders

National Membership
PROGRAMS

COSTCO
WHOLESALE

RECEIVE A \$10 COSTCO CASH CARD when you buy a Costco Membership Certificate online only before August 31, 2011, with your Macy's American Express Card. Limit 4 per cardholder. See website for details.

To purchase a Costco Membership Certificate today, visit www.membershipmacys.com



MARCY ZEVON

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Exhibit C

Minimum-Payment Amortization of Zevon Debt

Month	Beginning Balance	Minimum Payment	Subtotal	Interest on Subtotal	Ending Balance	Month
1	304.22	10.00	294.22	3.42	297.64	1
2	297.64	10.00	287.64	3.35	290.99	2
3	290.99	10.00	280.99	3.27	284.26	3
4	284.26	10.00	274.26	3.19	277.45	4
5	277.45	10.00	267.45	3.11	270.56	5
6	270.56	9.00	261.56	3.04	264.6	6
7	264.60	9.00	255.6	2.97	258.57	7
8	258.57	9.00	249.57	2.90	252.47	8
9	252.47	9.00	243.47	2.83	246.3	9
10	246.30	9.00	237.3	2.76	240.06	10
11	240.06	8.00	232.06	2.70	234.76	11
12	234.76	8.00	226.76	2.64	229.4	12
13	229.40	8.00	221.4	2.57	223.97	13
14	223.97	8.00	215.97	2.51	218.48	14
15	218.48	8.00	210.48	2.45	212.93	15
16	212.93	7.00	205.93	2.39	208.32	16
17	208.32	7.00	201.32	2.34	203.66	17
18	203.66	7.00	196.66	2.29	198.95	18
19	198.95	7.00	191.95	2.23	194.18	19
20	194.18	7.00	187.18	2.18	189.36	20
21	189.36	7.00	182.36	2.12	184.48	21
22	184.48	6.00	178.48	2.08	180.56	22
23	180.56	6.00	174.56	2.03	176.59	23
24	176.59	6.00	170.59	2.00	172.59	24
25	172.59	6.00	166.59	2.00	168.59	25
26	168.59	6.00	162.59	2.00	164.59	26
27	164.59	6.00	158.59	2.00	160.59	27
28	160.59	6.00	154.59	2.00	156.59	28
29	156.59	6.00	150.59	2.00	152.59	29
30	152.59	5.00	147.59	2.00	149.59	30
31	149.59	5.00	144.59	2.00	146.59	31
32	146.59	5.00	141.59	2.00	143.59	32
33	143.59	5.00	138.59	2.00	140.59	33
34	140.59	5.00	135.59	2.00	137.59	34
35	137.59	5.00	132.59	2.00	134.59	35
36	134.59	5.00	129.59	2.00	131.59	36
37	131.59	5.00	126.59	2.00	128.59	37
38	128.59	5.00	123.59	2.00	125.59	38
39	125.59	5.00	120.59	2.00	122.59	39
40	122.59	5.00	117.59	2.00	119.59	40
41	119.59	5.00	114.59	2.00	116.59	41

Based on 1.163% interest (14.15% APR, 30-day months) calculated monthly on ending balances, with a \$2.00 minimum interest charge. Minimum payment = greater of (i) 3.25% of beg'g balance, rounded up or (ii) \$5.00.

Minimum-Payment Amortization of Zevon Debt

Month	Beginning Balance	Minimum Payment	Subtotal	Interest on Subtotal	Ending Balance	Month
42	116.59	5.00	111.59	2.00	113.59	42
43	113.59	5.00	108.59	2.00	110.59	43
44	110.59	5.00	105.59	2.00	107.59	44
45	107.59	5.00	102.59	2.00	104.59	45
46	104.59	5.00	99.59	2.00	101.59	46
47	101.59	5.00	96.59	2.00	98.59	47
48	98.59	5.00	93.59	2.00	95.59	48
49	95.59	5.00	90.59	2.00	92.59	49
50	92.59	5.00	87.59	2.00	89.59	50
51	89.59	5.00	84.59	2.00	86.59	51
52	86.59	5.00	81.59	2.00	83.59	52
53	83.59	5.00	78.59	2.00	80.59	53
54	80.59	5.00	75.59	2.00	77.59	54
55	77.59	5.00	72.59	2.00	74.59	55
56	74.59	5.00	69.59	2.00	71.59	56
57	71.59	5.00	66.59	2.00	68.59	57
58	68.59	5.00	63.59	2.00	65.59	58
59	65.59	5.00	60.59	2.00	62.59	59
60	62.59	5.00	57.59	2.00	59.59	60
61	59.59	5.00	54.59	2.00	56.59	61
62	56.59	5.00	51.59	2.00	53.59	62
63	53.59	5.00	48.59	2.00	50.59	63
64	50.59	5.00	45.59	2.00	47.59	64
65	47.59	5.00	42.59	2.00	44.59	65
66	44.59	5.00	39.59	2.00	41.59	66
67	41.59	5.00	36.59	2.00	38.59	67
68	38.59	5.00	33.59	2.00	35.59	68
69	35.59	5.00	30.59	2.00	32.59	69
70	32.59	5.00	27.59	2.00	29.59	70
71	29.59	5.00	24.59	2.00	26.59	71
72	26.59	5.00	21.59	2.00	23.59	72
73	23.59	5.00	18.59	2.00	20.59	73
74	20.59	5.00	15.59	2.00	17.59	74
75	17.59	5.00	12.59	2.00	14.59	75
76	14.59	5.00	9.59	2.00	11.59	76
77	11.59	5.00	6.59	2.00	8.59	77
78	8.59	5.00	3.59	2.00	5.59	78
79	5.59	5.00	0.59	2.00	2.59	79
80	2.59	2.59	0	0	0	80

Total Cost:

\$ 477.59

Total Years:

7

Based on 1.163% interest (14.15% APR, 30-day months) calculated monthly on ending balances, with a \$2.00 minimum interest charge. Minimum payment = greater of (i) 3.25% of beg'g balance, rounded up or (ii) \$5.00.

Exhibit D

Three-Year Amortization of Zevon Debt

Month	Beginning Balance	Minimum Payment	Subtotal	Interest on Subtotal	Ending Balance	Month
1	304.22	10.00	294.22	3.42	297.64	1
2	297.64	10.00	287.64	3.35	290.99	2
3	290.99	10.00	280.99	3.27	284.26	3
4	284.26	10.00	274.26	3.19	277.45	4
5	277.45	10.00	267.45	3.11	270.56	5
6	270.56	10.00	260.56	3.03	263.59	6
7	263.59	10.00	253.59	2.95	256.54	7
8	256.54	10.00	246.54	2.87	249.41	8
9	249.41	10.00	239.41	2.78	242.19	9
10	242.19	10.00	232.19	2.70	234.89	10
11	234.89	10.00	224.89	2.62	227.51	11
12	227.51	10.00	217.51	2.53	220.04	12
13	220.04	10.00	210.04	2.44	212.48	13
14	212.48	10.00	202.48	2.35	204.83	14
15	204.83	10.00	194.83	2.27	197.1	15
16	197.10	10.00	187.1	2.18	189.28	16
17	189.28	10.00	179.28	2.09	181.37	17
18	181.37	10.00	171.37	2.00	173.37	18
19	173.37	10.00	163.37	2.00	165.37	19
20	165.37	10.00	155.37	2.00	157.37	20
21	157.37	10.00	147.37	2.00	149.37	21
22	149.37	10.00	139.37	2.00	141.37	22
23	141.37	10.00	131.37	2.00	133.37	23
24	133.37	10.00	123.37	2.00	125.37	24
25	125.37	10.00	115.37	2.00	117.37	25
26	117.37	10.00	107.37	2.00	109.37	26
27	109.37	10.00	99.37	2.00	101.37	27
28	101.37	10.00	91.37	2.00	93.37	28
29	93.37	10.00	83.37	2.00	85.37	29
30	85.37	10.00	75.37	2.00	77.37	30
31	77.37	10.00	67.37	2.00	69.37	31
32	69.37	10.00	59.37	2.00	61.37	32
33	61.37	10.00	51.37	2.00	53.37	33
34	53.37	10.00	43.37	2.00	45.37	34
35	45.37	10.00	35.37	2.00	37.37	35
36	37.37	10.00	27.37	2.00	29.37	36
37	29.37	10.00	19.37	2.00	21.37	37
38	21.37	10.00	11.37	2.00	13.37	38
39	13.37	10.00	3.37	2.00	5.37	39
40	5.37	5.37	0	0	0	40

Total Cost: **\$ 395.37** **\$ 91.15 Total Years:** **3**

Based on 1.163% interest (14.15% APR, 30-day months) calculated monthly on ending balances, with a \$10.00 monthly payment and a \$2.00 minimum interest charge.

Certificate of Service

I, Brian L. Bromberg, an attorney, hereby certify that I caused to be served on the following counsel of record the attached **Amended Complaint** on September 14, 2012, by Regular First Class Mail to:

Julia Beatrice Strickland, Esq.
Stroock & Stroock & Lavan LLP
2029 Century Park East
Los Angeles, CA 90067

David Wesley Moon, Esq.
Stroock & Stroock & Lavan LLP
2029 Century Park East, Suite 1800
Los Angeles, CA 90067

David V. Simunovich, Esq.
Stroock & Stroock & Lavan LLP
180 Maiden Lane
New York, NY 10038

Dated: New York, New York
 September 14, 2012



Brian L. Bromberg

Brian L. Bromberg